

REMARKS

Claims 1-3 and 6-75¹ are all the claims pending in the application. Claims 4-5 and 76 were previously canceled.

Claims 1, 2 and 14 are amended to incorporate the following Markush grouping:
“wherein the absorptive region is formed of a material selected from the group consisting of a fiber material and a porous material, including a carbon material or a material capable of forming a membrane filter.” Support can be found, for example, in Claims 57-65. No new matter is added.

Entry of the Amendment and reconsideration and review of the claims on the merits are respectfully requested.

Formal Matters

Applicant appreciates that the Examiner has reviewed and considered the references cited in the Information Disclosure Statement filed February 9, 2004.

The Examiner provides a Summary of the telephonic Interview of October 6, 2004, in a Form PTO-413.

Statement of Substance of Examiner's Interview

On September 30, Applicant's representative telephoned the Examiner inquiring why Applicant's Rule 132 Declaration was not considered by the Examiner in the Office Action dated September 9, 2004. In subsequent telephone calls on October 5, October 6, and October 7, 2004, the Examiner stated that she would review the Rule 132 Declaration, that she would issue a new non-final Office Action, and that the new Office Action would restart the time period for a response.

Allowed Claims and Allowable Subject Matter

Applicant appreciates the Examiner's indication that Claims 66-75 are allowed, and Claims 3, 42-44 and 60-65 are objected to as being dependent upon a rejected base claim (Claims 1 and 2), but would be allowable if rewritten in independent form including all of the limitations of the base claim.

Applicant responds as follows.

Applicant incorporates the subject matter of Claims 57-65, by reciting in each of Claims 1, 2 and 14 the following Markush grouping: "wherein the absorptive region is formed of a material selected from the group consisting of a fiber material and a porous material, including a carbon material or a material capable of forming a membrane filter".

Applicant respectfully submits that all pending claims are in condition for allowance given the additional remarks provided below.

¹ Applicant points out that the Office Action Summary does not indicate the status of Claim 16. Applicant points out that this is apparently in error as Claim 16 should be pending. Applicant requests clarification of the status of Claim 16 in the next Office communication.

Claim Rejection - 35 U.S.C. § 102

Claims 1, 2, 6-15, 17-41 and 45-59 are rejected under 35 U.S.C. § 102(e) as assertedly being anticipated by Pham et al. (US 6,426,050).

Applicant responds as follows.

Applicant submits that Pham et al does not anticipate at least the following Markush grouping: “wherein the absorptive region is formed of a material selected from the group consisting of a fiber material and a porous material, including a carbon material or a material capable of forming a membrane filter”.

As another point of distinction, Pham does not anticipate in Applicant’s invention “a substrate...formed with a plurality of holes” (see Claims 1-2) which holes can be either a “through-hole” (see Claims 6-7) or a “recess” (see Claims 8-9) and a “perforated plate formed with a plurality of through-holes” (see Claim 14). Pham would not apply to these elements as Pham et al is directed to multi-well platforms. Pham’s wells are defined at col. 2, lines 58-65, as generally having walls and bottoms (flat or round). Thus, Pham’s wells are structurally distinguishable from Applicant’s through-hole and recess embodiments. Pham’s Figs. 135A-135B show two preferred embodiments of a multi-well platform, apparently forming wells by two-separate elements 10 and 11, however, these elements in these figures do not appear to be described in Pham’s specification.

Applicant emphasizes the following additional differences between the present invention and Pham et al. It is possible to hold a large amount of the specimen in each of the absorptive

regions in the present invention, whereas only a small amount of specimen can be held at the bottom 11 of each of the wells of Pham et al. Pham et al clearly states at column 4, lines 1 to 4 regarding Figure 135A thereof that each well also comprises a bottom 11 having a high transmittance portion and having less fluorescence than a polystyrene-bottom of at least about 90 percent said thickness. However, in the present invention, it is sufficient for each of the absorptive regions to absorb specimen and have a property through which liquid can pass and it is unnecessary for each of the absorptive regions to have high transmittance. Therefore, the functions of the bottom 11 of Pham et al and the absorptive region of the present invention are essentially different from each other.

The dependent claims are patentable for at least the same reasons as given for the patentability of the independent Claims 1, 2 and 14.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejections under 35 U.S.C. § 102(e).

Claim Rejection - 35 U.S.C. § 103

Claims 33, 34, 39 and 40 are rejected under 35 U.S.C. § 103(a) as assertedly being unpatentable over Pham et al. for the reasons given in the Office Action.

Applicant relies on the response to the anticipation rejection given above for overcoming the obviousness rejection of dependent Claims 33, 34, 39 and 40.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a).

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

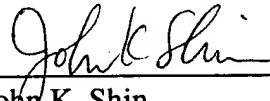
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